

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL NOLAU, individually and on
behalf of others similarly situated,

Plaintiffs,

v.

WSP USA INC., and other individuals or
entities related to the same,

Defendants.

Civil Action No. 1:22-cv-4276-VSB

**JOINT MOTION TO STAY
LITIGATION PENDING
MEDIATION**

Plaintiff Michael Nolau (“Plaintiff”), on behalf of himself and those similarly situated, together with Defendant WSP USA Inc. (“Defendant”) (together, the “Parties”), respectfully request that the Court issue a stay of these proceedings, including Defendant’s obligation to Answer or otherwise respond to the Complaint, through December 22, 2022, and a stay of the statute of limitations under the FLSA, in order to facilitate mediation and continued settlement discussions, if needed.

1. On May 24, 2022, Plaintiff filed a Class and Collective Action Complaint asserting claims under the Fair Labor Standards Act and New York Labor Law. (ECF Doc. 1).
2. On June 27, 2022, Defendant agreed to waive service of the Complaint and Summons.
3. On July 21, 2022, Defendant, with Plaintiff’s consent, filed a request for a 30-day extension of time to respond to the Complaint up to and including August 24, 2022. (ECF Doc. 9).
4. On July 22, 2022, the Court entered an Order granting Defendant’s application to extend the time to respond to the Complaint. (ECF Doc. 10).

5. Accordingly, the current deadline for Defendant's response to the Complaint is August 24, 2022.

6. Following discussions after Plaintiff filed this lawsuit, and as a means of facilitating potential settlement, the Parties have agreed to mediation. At this juncture, the Parties have agreed to mediate with well-respected mediator Martin Scheinman, Esq. on October 20, 2022.

7. To allow time for the Parties to exchange the information necessary to evaluate settlement and attempt to negotiate a resolution, the Parties believe a stay of approximately one hundred and twenty (120) days, or through December 22, 2022, is appropriate, including a tolling of the statute of limitations under the FLSA to focus energies on resolution rather than motion practice regarding collective and conditional certification.

8. The Parties respectfully request that the Court stay these proceedings (including Defendant's obligation to file an Answer or to otherwise respond to the Complaint). If settlement is not achieved, the Parties request that the Court set a date for a proposed scheduling order and/or case management conference after the Parties notify the Court that settlement efforts were unsuccessful.

9. Therefore, the Parties respectfully request that the Court grant this Motion and stay these proceedings through December 22, 2022.

10. The Parties certify the instant motion is not for the purpose of any delay or any ill-intent.

Respectfully submitted,

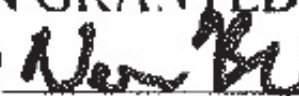
LEEDS BROWN LAW, P.C.

FISHER & PHILLIPS LLP

By: /s/ Jeffrey K. Brown
Jeffrey K. Brown, Esq.
One Old Country Road, Suite 347
Carle Place, New York 11514
T: (516) 873-9550
jbrown@leedsbrownlaw.com
Attorneys for Plaintiff

By: Kath M. Caminiti
Kathleen McLeod Caminiti, Esq.
430 Mountain Ave., Suite 303
Murray Hill, NJ 07974
T: (908) 516-1062
kcaminiti@fisherphillips.com
Attorneys for Defendant

Dated: August 24, 2022

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 08/25/22

The parties are ordered, on or before December 22, 2022, to submit a joint status update detailing their mediation efforts and progress. The parties are further ordered to notify the Court immediately if they reach a settlement before December 22, 2022. The parties are reminded that any settlement must be approved by the Court as fair and reasonable pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015), and that the Southern District of New York's mediation program has mechanisms in place to facilitate reaching a fair and reasonable settlement. The parties are directed to notify the Court if they wish to participate in the Court's mediation program.